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PART 1201—STANDARDS OF CONDUCT

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§ 1201.735-101 Introduction.

(a) Executive Order No. 11222 directs the Civil Service Commission to require each agency head to review and reissue his or her agency's regulations regarding the ethical conduct and other responsibilities of all its employees. One of the main purposes of the regulations in this part is to encourage individuals faced with questions involving subjective judgment to seek counsel and guidance. The general counsel is designated to be the counselor for ACTION with respect to these matters. Associate and assistant general counsels are designated to be deputy counselors. They will provide authoritative advice and guidance in this area to any ACTION employee who seeks it.

(b) The ACTION Committee on Conflict of Interests will review and monitor the agency's policies and procedures on conflict of interests. The committee shall consist of the general counsel, the Assistant Director of Administration and Finance, the Assistant Director of the Office of Compliance, the Director of Contracts and Grants Management Division, a Deputy Associate Director of Domestic Operations, a Deputy Associate Director for International Operations, a Deputy Assistant Director for the Office of Policy and Planning, and the Director's designee, who shall be a nonvoting member. The committee shall have the authority to:

(1) Adopt the procedures necessary to insure the implementation of and compliance with the conflict of interest regulations found at §§ 1201.735-301 through 1201.735-305.

(2) Issue interpretive opinions or clarifying statements on actual or hypothetical situations involving the provisions of §§ 1201.735-301 through 1201.735-305.

(3) Accept and review reports filed under § 1201.735-302(b).

(4) Grant specific relief from the provisions of §§ 1201.735-303 through 1201.735-305 by a majority vote of the committee, if, after due consideration, the committee finds that:

(i) No actual conflict of interest exists, and

(ii) The purpose of the rule would not be served by its strict application, and

(iii) A substantial inequity would otherwise occur. In each such case the committee shall issue a written decision setting forth its findings as required above. The committee may make any exception subject to such conditions and restrictions as it deems appropriate.

(c) Any violation of the regulations in this part may be cause for disciplinary action. Violation of those provisions of the regulations in this part which reflect legal prohibitions may also entail penalties provided by law.

(d) This part applies to all employees of ACTION. “Employee” as used in this part includes regular employees, Presidential appointees, “special Government employees,” experts, and consultants whether employed on a full-time or intermittent basis.

§ 1201.735–102 Definitions.

(a) *Special Government employee* as used herein means a person appointed or employed to perform temporary duties for ACTION with or without compensation, on a full-time or intermittent basis, for not to exceed 130 days during any period of 365 days.

(b) *Regular Government employee* as used herein means any officer or employee other than a special Government employee.

(c) *Organization* as used herein includes profit and nonprofit corporations, associations, partnerships, trusts, sole proprietorships, foundations, and State and local government units.

(d) *Grantee* as used herein means any organization that receives financial assistance from ACTION including the assignment of volunteers.

(e) *Potential Grantee or Contractor* means any organization that has submitted a proposal, application, or otherwise indicated in writing its intent to apply for or seek a specific grant or contract.

(f) *Associated with* means:

(1) That the person is a director of the organization or is a member of a board or committee which exercises a recommending or supervisory function in connection with an ACTION project;

(2) That the person or his or her spouse, minor child or other member of his or her immediate household, serves as an employee, officer, owner, trustee, partner, consultant, or paid adviser (general membership in an organization is not included within the definition of *associated with*);

(3) That the person, his or her spouse, minor child, or other member of his or her immediate household, owns, individually or collectively, 1 percent or more of the voting shares of an organization;

(4) That the person, his or her spouse, minor child, or other member of his or her immediate household, owns, individually or collectively, either beneficially or as trustee, a financial interest in an organization through stock, stock options, bonds, or other securities, or obligations, valued at \$50,000 or more; or

(5) That a person has a continuing financial interest in an organization, such as a bona fide pension plan, valued at \$5,000 or more, through an arrangement resulting from prior employment or business or professional association.

The term *associated* does not include an indirect interest, such as ownership of shares in a mutual fund, bank or insurance company, which in turn owns an interest in an organization which has, or is seeking or under consideration for a grant or contract. Such and *indirect* interest, as well as financial interests of amounts less than those stated in paragraphs (f) (3) through (5) of this section, are hereby determined pursuant to 18 U.S.C. 208(b)(2) to be too remote to affect the integrity of the employee’s services.

Subpart B—General Conduct and Responsibilities of Employees

§ 1201.735–201 Proscribed actions—Executive Order 11222.

As provided by the President in Executive Order No. 11222, whether specifically prohibited by law or in the regulations in this part, no U.S. regular or special Government employees shall take any action which might result in, or create the appearance of:

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(a) Using public office or employment for private gain, whether for themselves or for another person, particularly one with whom they have family, business, or financial ties.

(b) Giving preferential treatment to any person.

(c) Impeding Government efficiency or economy.

(d) Losing complete independence or impartiality.

(e) Making a Government decision outside official channels.

(f) Affecting adversely the confidence of the public in the integrity of the Government.

(g) Using Government office or employment to coerce a person to provide financial benefit to themselves or to other persons, particularly anyone with whom they have family, business or financial ties.

§ 1201.735–202 General conduct prejudicial to the Government.

An employee may not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct prejudicial to the Government (5 CFR 735.209).

§ 1201.735–203 Criminal statutory prohibitions—Conflict of interest.

(a) *Regular Government employees.* Regular employees of the Government are subject to the following major criminal prohibitions:

(1) They may not, except in the discharge of their official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies to both paid and unpaid representation of another (18 U.S.C. 205).

(2) They may not, after Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which they participated personally and substantially for the Government (18 U.S.C. 207).

(3) They may not for 1 year after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was

within the boundaries of their official responsibility during their last year of Government service. This temporary restraint gives way to the permanent restraint described in paragraph (a)(3) of this section if the matter is one in which the employee participated personally and substantially (18 U.S.C. 207).

(4) They may not receive any salary, or supplementation of their Government salary, from a private source as compensation for services to the Government (18 U.S.C. 209).

(b) *Special Government employees.* Special Government employees are subject to the following major criminal prohibitions:

(1) They may not, except in the discharge of official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest and in which they have at any time participated personally and substantially for the Government (18 U.S.C. 205).

(2) They may not, except in the discharge of official duties, represent anyone else in a matter pending before the agency they serve unless they have served there no more than 60 days during the past 365. They are bound by this restraint despite the fact that the matter is not one in which they have ever participated personally and substantially (18 U.S.C. 205). (See § 1201.735–303(b) for additional nonstatutory Agency restrictions on a special employee representing any other person or organization in a matter pending before the Agency.) The restrictions described in paragraphs (b)(1) and (2) of this section apply to both paid and unpaid representation of another.

(3) They may not participate in their governmental capacity in any matter in which they, their spouse, minor child, outside business associate, or persons with whom they are negotiating for employment have a financial interest (18 U.S.C. 208).

(4) They may not, after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which they participated personally and substantially for the Government (18 U.S.C. 207).

(5) They may not, for 1 year after their Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of their official responsibility during their last year of Government service. This temporary restraint gives way to the permanent restriction described in paragraph (b)(4) of this section if the matter is one in which they participated personally and substantially (18 U.S.C. 207).

Subpart C—Outside Employment Activities and Associations

§ 1201.735-301 In general.

(a) There is no general prohibition against ACTION employees holding outside employment, including teaching, lecturing, or writing. But no employee may engage in outside employment or associations if they might result in a conflict or an appearance of conflict between the private interests of the employee and his or her official responsibility.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for his or her services to the Government (18 U.S.C. 209).

(c) An employee shall not have a direct or indirect financial interest that conflicts substantially or appears to conflict substantially with his or her Government duties and responsibilities. Nor may an employee engage in, directly or indirectly, a financial transaction as a result of or primarily relying on information obtained through his or her Government employment.

§ 1201.735-302 Association with a potential grantee or contractor prior to ACTION employment.

(a) No employee, or any person subject to his or her supervision, may participate in the decision to award a grant or a contract to an organization with which that employee has been associated in the past 2 years. When an employee becomes aware that such an organization is under consideration for or has applied for a grant or a contract with the Agency, the employee shall

notify his or her immediate supervisor in writing. The supervisor shall take whatever steps are necessary to exclude the employee from all aspects of the decision processes regarding the grant or contract.

(b) When the Director, Deputy Director, or an Associate or Assistant Director, becomes aware that an organization with which he or she has been associated in the past 2 years is under consideration for or has applied for a grant or contract with the Agency, he or she shall refrain from participating in the decision process and immediately notify the Assistant Director of the Office of Compliance, who shall select an independent third party, not in any way connected or associated with the concerned official. The third party shall participate in and review the decision process to the extent he or she deems necessary to insure objectivity and the absence of favoritism. Said third party shall preferably be a person experienced in the area of government contracts and grants. The third party shall file a report in writing with the Committee on Conflict of Interest stating his or her conclusions, observations, or objections, if any, to the decision process concerning the grant or contract, which document shall be attached to and become a part of the official file.

§ 1201.735-303 Association with ACTION grantee or contractor or potential grantee or contractor while an ACTION employee.

(a) No regular employee may be associated with any ACTION grantee, contractor, or potential grantee or contractor. Any organization that is associated with a regular employee shall be suspended from consideration as a grantee or contractor.

(b) No regular or special employee, except in his or her official capacity as an ACTION employee, shall either participate in any way on behalf of any organization in the preparation or development of a grant or contract proposal involving ACTION or represent any other organization in a matter pending before ACTION. In the event that a regular or special employee participates while an employee of ACTION in any aspect of the development of a

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grant or contract proposal on behalf of an organization, or represents another organization in a matter pending before ACTION, that organization shall be suspended from consideration for the grant or contract.

(c) No regular or special employee who, prior to his or her employment at ACTION, participated in the development of a grant or contract proposal on behalf of another organization, shall participate as an ACTION employee, in any aspect of the decision process regarding that grant or contract, or, if the grant or contract is awarded, in any oversight or management capacity in relation to that grant or contract. In addition, any such grant or contract shall only be awarded through a competitive process. In the event a regular or special employee who participated in the development of the grant or contract proposal prior to being employed at ACTION does participate as an ACTION employee in the decision process for such grant or contract, the organization shall be suspended from consideration.

(d) If a special employee participates as an employee of ACTION in any aspect of the development of a proposal or project, whether or not such participation is minimal or substantial, any organization with which he or she is associated shall be suspended from consideration for the grant or contract.

(e) If an organization with which a special employee is associated submits a proposal for a grant or contract, and the special employee did not participate either as an employee of ACTION or an associate of the organization in any aspect of the project or proposal or the application therefor, the matter shall be referred to the Committee on Conflict of Interests for determination. The Committee shall consider the following factors and any others it deems relevant:

(1) The nature, length, and origin of the special employee's relationship with the Agency, the nature and scope of the employee's duties and responsibilities, the division or office to which the employee is assigned, and whether the employee's duties are in any way related to the proposed grant or contract.

(2) The nature, length, and type of the employee's relationship with the organization, whether the employee's position involves policy making or supervision of other employees and the relationship of the position with the organization to the work to be performed under the proposed grant or contract.

(3) Whether awarding the grant or contract to the organization would result in the appearance of or the potential for a conflict of interest.

(4) The process to be used in awarding the grant or contract.

(f) If a special employee wishes to become or remain associated with an ACTION grantee or contractor while he or she is an employee of ACTION, subject to the restrictions paragraphs (b) through (e) of § 1201.735-303, the matter shall be referred to the Committee on Conflict of Interests for determination. The Committee shall consider the following factors and any others it deems relevant:

(1) The nature, length, and origin of the special employee's relationship with the Agency, the nature and scope of the employee's duties and responsibilities, the division or office to which the employee is assigned, and whether the employee's duties are in any way related to the grant or contract.

(2) The nature, length, and type of the employee's relationship with the organization, whether the employee's position involves policymaking or supervision of other employees and the relationship of the position with the organization to the work to be performed under the proposed grant or contract.

(3) Whether such a relationship would result in the appearance of or the potential for a conflict of interest.

(g) Any suspension involving proposed contracts under this rule shall be in accordance with procedures set forth in 41 CFR 1-1.600 et seq.

§ 1201.735-304 Employment after leaving ACTION.

(a) Employees may negotiate for prospective employment with non-Government organizations only when they have no duties as ACTION employees which could affect that organization's

interest, or after they have disqualified themselves, on the written permission of their supervisor, from such duties.

(b) For 1 year after leaving ACTION, no regular or special employee may serve pursuant to a personal or nonpersonal services contract or accept employment with an ACTION grantee or contractor for a position in which he or she would be working in any activity supported in whole or in part by ACTION funds received under an ACTION program which was within the boundaries of the employee's official responsibility or in which he or she participated personally while employed at ACTION.

(c) If, within 1 year after leaving ACTION, an individual accepts employment in violation of this rule, ACTION will disallow the costs allocated under the grant or contract for that position. In addition, a letter describing the violation will be placed in the employee's personnel file.

§ 1201.735-305 Employment with ACTION grantee or contractor.

An employee of an ACTION grantee or contractor who is compensated directly or indirectly from ACTION funds will be ineligible to be compensated under any personal or nonpersonal services contract with this Agency which will result in the employee being paid twice for the same time or product.

§ 1201.735-306 Association with non-ACTION grantee or contractor while an ACTION employee.

(a) An employee shall not engage in outside employment which tends to impair the employee's mental or physical capacity to perform his or her official responsibility in an acceptable manner.

(b) *Teaching, lecturing, and writing.* (1) *Use of information.* An employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his or her Government employment, except when that information has been or on request will be made available to the general public or when the agency head gives advance written authorization for the use of nonpublic information on

the basis that the proposed use is in the public interest.

(2) *Compensation.* No employee may accept compensation or anything of value for any lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the ACTION programs or which draws substantially on official data or ideas which have not become part of the body of public information.

(3) *Clearance of publications.* No employee may submit for publication any writing, other than recruiting information, the contents of which are devoted to the ACTION programs or to any other matter which might be of official concern to the U.S. Government without in advance clearing the writing with the Office of Communications or regional communications specialists, as appropriate. Before clearing any such writing, the Office of Communications will consult with the appropriate ACTION office.

(c) *State and local government employment.* Regular employees may not hold office or engage in outside employment under a State or local government except with prior approval of the General Counsel, ACTION.

(d) All employees not required by § 1201.735-401 to report their outside employment and financial interests shall inform their supervisors of all outside employment they hold or accept.

§ 1201.735-307 Gifts, entertainment, and favors.

(a) *From donors dealing with ACTION.*

(1) No regular or special employees may solicit or accept, directly or indirectly, for themselves, for any member of their family, or for any person with whom they have business or financial ties, any gift, gratuity, favor, entertainment, or loan or any other thing of value, from any individual or organization which:

(i) Has, or is seeking to obtain, contractual or other business or financial relations with ACTION;

(ii) Has interests that may be substantially affected by the performance or nonperformance of the employee's official responsibility;

(iii) Is in any way attempting to affect the employee's exercise of his or her official responsibility; or

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(iv) Conducts operations or activities that are regulated by ACTION.

(2) Paragraph (a)(1) of this section does not prohibit, even if the donor has dealings with ACTION:

(i) Acceptance of things of value from parents, children, or spouse if those relationships rather than the business of the donor is the motivating factor for the gift;

(ii) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of breakfast, luncheon, or dinner meeting or other meetings;

(iii) Solicitation and acceptance of loans from banks or other financial institutions to finance proper and usual activities of employees, such as home mortgage loans, solicited and accepted on customary terms;

(iv) Acceptance on behalf of minor dependents of fellowships, scholarships, or educational loans awarded on the basis of merit and/or need;

(v) Acceptance of awards for meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, non-profit educational and recreational, public service, or civic organization.

(3) Regular or special employees need not return unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars, and other things of nominal intrinsic value.

(b) *From other ACTION employees.* No employees in superior official positions may accept any gifts presented as contributions from employees receiving less salary than themselves. No employees shall solicit contributions from other employees for a gift to an employee in a superior official position, nor shall any employees make a donation as a gift to an employee in a superior official position. However, this paragraph does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(c) *From foreign governments.* No regular employee may solicit or, without the consent of the Congress, receive any present, decoration, emolument, pecuniary favor, office, title, or any other gift from any foreign government. See 5 U.S.C. 7342; Executive

Order 11320; and 22 CFR part 3 (as added, 32 FR 6469).

(d) *Gifts to ACTION.* Gifts to the United States or to ACTION may be accepted in accordance with ACTION regulations.

(e) *Reimbursement for expenses.* Neither this section nor §1201.735-310(a) precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expenses of travel and such other necessary subsistence as is compatible with this part and for which no Government payment or reimbursement is made. However, this paragraph does not allow an employee to be reimbursed, or payment to be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits. Nor does it allow an employee to receive non-Government reimbursement of travel expenses for travel on official business under ACTION orders; but rather, such reimbursement, if any, should be made to ACTION and amounts received should be credited to its appropriation. If an employee receives accommodations, goods, or services in kind from a non-Government source, this item or items will be treated as a donation to ACTION and an appropriate reduction will be made in per diem or other travel expenses payable.

§ 1201.735-308 Economic and financial activities of employees abroad.

(a) *Prohibitions in any foreign country.* A U.S. citizen employee abroad is specifically prohibited from engaging in the activities listed below in any foreign country:

(1) Speculation in currency exchange;

(2) Transactions at exchange rates differing from local legally available rates, unless such transactions are duly authorized in advance by the agency;

(3) Sales to unauthorized persons (whether at cost or for a profit) of currency acquired at preferential rates through diplomatic or other restricted arrangements;

(4) Transactions which entail the use, without official sanction, of the diplomatic pouch;

(5) Transfers of funds on behalf of blocked nationals, or otherwise in violation of U.S. foreign funds and assets control;

(6) Independent and unsanctioned private transactions which involve an employee as an individual in violation of applicable control regulations of foreign governments;

(7) Acting as an intermediary in the transfer of private funds from persons in one country to persons in another country, including the United States;

(8) Permitting use of one's official title in any private business transactions or in advertisements for business purposes.

(b) *Prohibitions in country of assignment.* (1) A U.S. citizen employee shall not transact or be interested in any business or engage for profit in any profession or undertake other gainful employment in any country or countries to which he or she is assigned or detailed in his or her own name or through the agency of any other person.

(2) A U.S. citizen employee shall not invest in real estate or mortgages on properties located in his or her country of assignment. The purchase of a house and land for personal occupancy is not considered a violation of this paragraph.

(3) A U.S. citizen employee shall not invest money in bonds, shares, or stocks of commercial concerns headquartered in his or her country of assignment or conducting a substantial portion of business in such country. Such investments, if made prior to knowledge of assignment or detail to such country or countries, may be retained during such assignment or detail.

(4) A U.S. citizen employee shall not sell or dispose of personal property, including automobiles, at prices producing profits which result primarily from import privileges derived from his or her official status as an employee of the U.S. Government.

§ 1201.735-309 Information.

(a) Release of information to press.

(1) Regular or special employees shall not withhold information from the press or public unless that information is classified or administratively con-

trolled (limited official use). All responses to requests for information from the press should be referred to the Office of Communications or regional communications officers as appropriate who will be responsible for all releases. Regular and special employees should be certain that information given to the press and public is accurate and complete.

(2) Any questions as to the classification or administrative control of information should be referred to the general counsel.

(3) No regular or special employee may record by electronic or other device any telephone or other conversation. No regular or special employee may listen in on any telephone conversation without the consent of all parties thereto.

(b) Disclosure and misuse of inside information. No employee may, directly or indirectly, disclose or use for his or her own benefit, or for the private benefit of another, inside information as described in paragraph (c) of this section. The use of such information by an employee is restricted to the proper performance of his or her official duties. The disclosure of such information is restricted to official ACTION channels unless disclosure is authorized by the Director, the Deputy Director, an Associate Director, or a Regional Director of ACTION. In particular, no employee may:

(1) Engage in, directly or indirectly, a financial transaction as a result of or primarily relying on such information; or

(2) Publish any book or article, or deliver any speech or lecture, based on or using such information.

(c) Definition: The term "inside information" as used in this section means, generally, information obtained under Government authority which is not known by the general public and which could affect the rights or interests of the Government or of a non-Government organization or person. Such information includes information about ACTION operations or administration, and personnel which could influence someone's dealing with ACTION.

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(d) This section is not intended to discourage the disclosure through proper channels of information which has been or should be made public, or which is by law to be made available to the public. Also, employees are encouraged to teach, lecture, and write, provided they do so in accordance with the provisions of this section and §§ 1201.735-301, and 1201.735-306.

§ 1201.735-310 Speeches; participation in conferences.

(a) *Fees and expenses.* (1) Although an employee may not accept a fee for his or her own use or benefit for making a speech, delivering a lecture, or participating in a discussion if the subject is ACTION or ACTION programs or if such services are part of the employee's official ACTION duties, the employee may suggest that the amount otherwise payable as a fee or honorarium be contributed to ACTION.

(2) When a meeting, discussion, etc., to which paragraph (a)(1) of this section refers takes place at a substantial distance from the employee's home he or she may accept reimbursement for the actual cost of transportation and necessary subsistence, or expenses, but in no case shall he or she receive any amount for personal benefit. Such reimbursements shall be reported by the employee to his or her immediate supervisors.

(3) An employee may accept fees for speeches, etc., dealing with subjects other than ACTION or ACTION programs when no official funds have been used in connection with his or her appearance and such activities do not interfere with the efficient performance of his or her duties.

(b) *Racial segregation.* No employee may participate for ACTION in conferences or speak for ACTION before audiences where any racial group has been segregated or excluded from the meeting, from any of the facilities or conferences, or from membership in the organization sponsoring the conference or meeting.

(1) When a request for ACTION speakers or participation is received under circumstances where segregation may be practiced, the Director of the Office of Communications shall make specific inquiry as to the practices of

the organization before the request is filled.

(2) If the inviting organization shows a willingness to modify its practices for the occasion, ACTION will cooperate in such efforts.

(3) Exceptions to this paragraph may be made only by the Director, ACTION and in his or her discretion.

§ 1201.735-311 Partisan political activities.

(a) Prohibited activities: No employee may:

(1) Use his or her official authority or influence for the purpose of interfering with an election or affecting the result thereof; or

(2) Take any active part in partisan political management or in political campaigns, except as may be provided by or pursuant to statute 5 U.S.C. 7324.

(b) Intermittent employees: Persons employed on an irregular or occasional basis are subject to paragraph (a) of this section only while in active duty status and for the 24 hours of any day of actual employment.

(c) Excepted activities: Paragraph (a) of this section does not apply to:

(1) Nonpartisan campaigns and elections in which none of the candidates is to be nominated by or elected as representing a national or State political party, such as most school board elections; or

(2) Political activities connected with questions of public interest which are not specifically identified with national or State political parties, such as constitutional amendments, referenda, and the like (5 U.S.C. 7326).

(d) Excepted communities: Paragraph (a) of this section does not apply to employees who are residents of certain communities. These communities, which have been designated by the Civil Service Commission (5 CFR 733.301), consist of a number of communities in suburban Washington, DC, and a few communities elsewhere in which a majority of the voters are Government employees. Employees who are residents of the designated communities may be candidates for, or campaign for others who are candidates for, local office if they or the candidates for whom they are campaigning are running as independent candidates.

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An employee may hold local office only in accordance with §§ 1201.735-301 through 1201.735-306 relating to outside employment and associations.

(e) Special Government employees are subject to the statute for the 24 hours of each day on which they do any work for the Government.

(f) While regular employees may explain and support governmental programs that have been enacted into law, in exercising their official responsibilities they should not publicly support or oppose pending legislation, except in testimony required by the Congress.

(g) The Foreign Service Act generally prohibits any Foreign Service employee from:

(1) Corresponding in regard to the public affairs of any foreign government, except with the proper officers of the United States; and

(2) Recommending any person for employment in any position of trust or profit under the government of the country to which he or she is detailed or assigned.

§ 1201.735-312 Use of Government property.

A regular or special employee shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government for other than officially approved activities. All employees have a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued to them. By law, penalty envelopes may be used only for official Government mail.

§ 1201.735-313 Indebtedness.

ACTION considers the indebtedness of its employees to be a matter of their own concern and will not function as a collection agency. Nevertheless, a regular or special employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, or one imposed by law such as Federal, State or local taxes, and "in a proper and timely manner" means in a

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manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his or her employer. In the event of a dispute between an employee and an alleged creditor, this section does not require ACTION to determine the validity or amount of the disputed debt.

§ 1201.735-314 Gambling, betting, and lotteries.

A regular or special employee shall not participate, while on Government owned or leased property or while on duty for the Government in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket.

§ 1201.735-315 Discrimination.

No regular or special employee may make inquiry concerning the race, political affiliation, or religious beliefs of any employee or applicant in connection with any personnel action and may not practice, threaten, or promise any action against or in favor of an employee or applicant for employment because of race, color, religion, sex, or national origin and in the competitive service on the basis of politics, marital status, or physical handicap.

§ 1201.735-316 Related statutes and regulations.

Each employee should be aware of the following related statutes and regulations:

(a) House Concurrent Resolution 175, 8th Congress, second session, 72A Stat. B12, the "Code of Ethics for Government Service."

(b) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913).

(c) The prohibitions against disloyalty and striking (5 U.S.C. 7311, 18 U.S.C. 1918).

(d) The prohibition against accepting honorariums of more than \$2,000 per speech, appearance or article or aggregating more than \$25,000 in any calendar year (2 U.S.C. 441i).

(e) The prohibitions against: (1) The disclosure of classified information (18 U.S.C. 798, 50 U.S.C. 783); and (2) the

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disclosure of confidential information (18 U.S.C. 1905).

(f) The provisions relating to the habitual use of toxicants to excess (5 U.S.C. 7352).

(g) The prohibition against the misuses of a Government vehicle (31 U.S.C. 638(a) (c)).

(h) The prohibition against the misuses of the franking privilege (18 U.S.C. 1719).

(i) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917).

(j) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001).

(k) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071).

(l) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508).

(m) The prohibitions against: (1) Embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his or her employment (18 U.S.C. 654).

(n) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).

(o) The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code, and 18 U.S.C. 602, 603, 607, and 608.

(p) The prohibition against gifts to employee's superiors and the acceptance thereof (Rev. Stat. 1784, 5 U.S.C. 113).

(q) Chapter 11 of title 18, United States Code, relating to bribery, graft, and conflicts of interest, which is specifically applicable to special Government employees as well as to regular employees.

(r) The prohibitions against: (1) Accepting gifts from foreign governments; (2) engaging in business abroad; (3) corresponding on the affairs of foreign governments; and (4) discrimination on political, racial, or religious grounds contained in sections 1002

through 1005 of the Foreign Service Act of 1946, as amended.

(s) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agents Registration Act (18 U.S.C. 219).

(t) The prohibition against appointing or advocating the appointment of a relative to a position within the Agency (5 U.S.C. 3110).

Subpart D—Procedures for Submission by Employees and Review of Statements of Employment and Financial Interests

§ 1201.735-401 Submission of statements.

(a) (1) Regulations of the Civil Service Commission (5 CFR part 735) require ACTION to adopt regulations providing for the submission of statements of employment and financial interests from certain regular ACTION employees and all special ACTION employees.

(2) All special employees and those regular employees designated in paragraph (b) of this section shall complete statements of employment and financial interests and submit them to the Office of General Counsel not later than 5 days after their entrance on duty. The Director of Personnel Management shall be responsible for supplying all new employees with the necessary forms either prior to or on the first day of their employment.

(3) The statement of employment and financial interests shall include information on organizations with which the employee was associated during the 2 years prior to his or her employment by ACTION, as well as information about current associations. Special employees shall also indicate to the best of their knowledge which organizations listed currently on their form have contracts with or grants from ACTION, or are applying for ACTION contracts or grants. If any information required to be included on the statement, including holdings placed in trust, is not known to an employee but is known to another person, he or she is required to request that other person to submit information on his or her behalf.

(4) Changes in or additions to the information contained in a regular or special employee's statement must be reported in a supplementary statement as of June 30 each year. The Director of Personnel Management shall be responsible for insuring that such supplementary statements are submitted by June 30. If there are no changes or additions, a negative report is required. Notwithstanding the filing of the annual report required by this paragraph, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a conflict of interest and a violation of the conflict-of-interest provisions of section 208 of title 18, United States Code, or the conflict-of-interest provisions of this part.

(5) In the case of temporary summer employees hired at FSR-7 or equivalent and below to perform duties other than those of an expert or consultant, the reporting requirement will be waived. It may also be waived by the Director of Personnel Management with respect to other appointments, except as experts or consultants, upon a finding that the duties of the position held by the special Government employee are of a nature and at such a level of responsibility that the reporting of employment and financial interests is not necessary to protect the integrity of the Government.

(6) Regular or special employees are not required to submit in a statement of employment and financial interests or supplementary statements any information about their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization not conducted as a business enterprise. For this purpose, any organizations, doing work involving or potentially involving grants of money from or contracts with the Government are considered business enterprises and are required to be included in a regular or special employee's statement of employment and financial interests.

(7) The statements of employment and financial interests and supplementary statements required are in addition, and not in substitution for or in designation of, any similar require-

ment imposed by law, order, or regulation. The submission of a statement of supplementary statement by an employee does not permit him or her or any other person to participate in a matter in which his or her or other persons' participation is prohibited by law, order, or regulations.

(8) A regular employee who believes that his or her position has been improperly included under ACTION regulations as one requiring the submission of a statement of employment and financial interests shall be given an opportunity for review through ACTION's grievance procedures to determine whether the position has been improperly included.

(b) Statements shall be submitted by the following employees:

- (1) Office of the Director:
 - (i) Director.
 - (ii) Deputy Director.
 - (iii) Executive Officer.
 - (iv) Special Assistants to Director and Deputy.
 - (v) Executive Assistants to Director and Deputy.
- (2) Office of Domestic and Anti-Poverty Operations:
 - (i) Associate Director.
 - (ii) Deputy Associate Directors.
 - (iii) Special Assistants to Associate Director and to Deputy Associate Directors.
 - (iv) Supervisory program specialists.
 - (v) Program specialists and analysts.
 - (vi) Regional Directors.
 - (vii) Deputy Regional Directors.
 - (viii) Regional training chiefs.
 - (ix) Regional staff members with contracting and disbursing authority.
 - (x) Regional program operations officers.
 - (xi) State program directors.
 - (xii) State program officers.
 - (xiii) Deputy Directors, VISTA, and OAVP.
- (3) Office of Administration and Finance:
 - (i) Assistant Director.
 - (ii) Deputy Assistant Director.
 - (iii) Director, Management and Organization.
 - (iv) Director, Administrative Services.
 - (v) Chief, Paperwork and Management.
 - (vi) Chief, Transportation.

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(vii) Chief, Communications and Property.
(viii) Director, Accounting Division.
(ix) Chief, Fiscal Services.
(x) Chief, Accounting Operations.
(xi) Cashier.
(xii) Director, Personnel Management.
(xiii) Deputy Director, Personnel Management.
(xiv) Director, Health Services.
(xv) Director, Contracts and Grants Management.
(xvi) Chief, Procurement Division.
(xvii) Contract specialists, negotiators, and administrators.
(xviii) Purchasing agents.
(xix) Chief, Grants Division.
(xx) Senior Grants Administrator.
(xxi) Grants Administrator.
(xxii) Director, Computer Services.
(xxiii) Director, Staff Training and Development.
(4) Office of Recruitment and Communications:
(i) Assistant Director.
(ii) Deputy Assistant Director.
(iii) Special Assistant to Assistant Director.
(iv) Director, Planning and Evaluation.
(v) Director, Recruitment Resources.
(vi) Director, Office of Communications.
(vii) Director, Public Affairs.
(viii) Director, Creative Services.
(5) Office of Voluntary Citizen Participation:
(i) Assistant Director.
(ii) Director program operations.
(iii) Director, International and Special Assistance.
(iv) Program specialists.
(v) Director, School Partnership program.
(6) Office of the General Counsel:
(i) General Counsel.
(ii) Deputy General Counsel.
(iii) Associate General Counsels.
(iv) Assistant General Counsels.
(7) Office of Policy and Planning:
(i) Assistant Director.
(ii) Deputy Assistant Director.
(iii) Special Projects Officer.
(iv) Director, Budget Division.
(v) Director, Policy Development.
(vi) Director, Evaluation.
(vii) Director, Planning.
(viii) Special Assistants to Assistant Director.

(ix) Program analysts.
(x) Policy development analysts.
(xi) Supervisory program specialists.
(xii) Evaluation specialists.
(8) Office of Legislative and Governmental Affairs:
(i) Assistant Director.
(9) Office of Compliance:
(i) Assistant Director.
(ii) Inspector General.
(iii) Auditors, inspectors, program operations analysts.
(iv) Director, Division of Equal Opportunity.
(10) Office of International Operations:
(i) Associate Director.
(ii) Deputy Associate Directors.
(iii) Director, Programing and Training.
(iv) Director, Multilateral and Special programs.
(v) Director, Special Services.
(vi) Director, Office of Management.
(vii) Director, Office of Peace Corps Volunteer Placement.
(viii) Regional Directors.
(ix) Country Directors and those overseas staff members to whom contracting or procurement authority has been duly delegated by the Country Director.

§ 1201.735-402 Review of statements.

(a) The Office of General Counsel shall review all statements and forward the names of all listed organizations to the Director of Contracts and Grants Management. In addition, if the information provided in the statement indicates on its face a real, apparent, or potential conflict of interest under §§ 1201.735-301 through 1201.735-305 of these standards, the General Counsel will review the situation with the particular employee. If the General Counsel and the employee are unable to resolve the conflict to the General Counsel's satisfaction, or if the employee wishes to request an exception to any of the above enumerated rules, the case will be referred to the Committee on Conflict of Interests. The Committee is authorized to recommend appropriate remedial action to the Director, who is authorized to take such action as may include, but is not limited to, changing assigned duties, requiring the employee or special employee to divest himself of

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a conflicting interest, taking disciplinary action, or disqualifying or accepting the self-disqualification of the employee or special employee for a particular assignment.

(b) The Office of Contracts and Grants Management shall maintain a list of all the organizations with which employees are or have been associated, as well as a list of all current grantees of and contractors with the Agency. When names of organizations with which new employees are or have been associated are submitted to the Grants office, they shall be checked against the list of current grantees or contractors. Similarly, before any new grants or contracts are awarded, the names of the potential grantees and contractors will be checked against the master list of organizations with which employees are or have been associated. Any real, apparent, or potential conflicts which come to light as a result of these cross checks will be referred to the Office of General Counsel for review. The General Counsel will proceed as in paragraph (a) of this section, referring the matter to the Committee on Conflict of Interests if necessary.

(c) Whenever an organization submits a proposal or application or otherwise indicates in writing its intent to apply for or seek a specific grant or contract, ACTION shall immediately forward a copy of the Agency standards of conduct to that organization and shall note which particular rules apply to potential grantees and contractors.

(d) Whenever a regular or special employee terminates his or her employment with ACTION, the Office of Personnel Management shall provide that employee with a copy of the rule which restricts a person's employment for a period of 1 year after leaving ACTION. Personnel shall also notify the Office of General Counsel when an employee terminates. One year after the date of termination, General Counsel will instruct the Office of Grants and Management to remove from the master list any organizations with which the terminated employee was associated. Three years after the date of termination, General Counsel will destroy the statement of employment and financial interests.

45 CFR Ch. XII (10–1–96 Edition)

PART 1203—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Sec.

- 1203.1 Purpose.
- 1203.2 Application of this part.
- 1203.3 Definitions.
- 1203.4 Discrimination prohibited.
- 1203.5 Assurances required.
- 1203.6 Compliance information.
- 1203.7 Conduct of investigations.
- 1203.8 Procedure for effecting compliance.
- 1203.9 Hearings.
- 1203.10 Decisions and notices.
- 1203.11 Judicial review.
- 1203.12 Effect on other regulations, forms, and instructions.

APPENDIX A TO PART 1203—ACTIVITIES TO WHICH THIS PART APPLIES

APPENDIX B TO PART 1203—PROGRAMS TO WHICH THIS PART APPLIES WHEN A PRIMARY OBJECTIVE OF THE FEDERAL FINANCIAL ASSISTANCE IS TO PROVIDE EMPLOYMENT

AUTHORITY: Sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1.

SOURCE: 39 FR 27322, July 26, 1974, unless otherwise noted.

§ 1203.1 Purpose.

The purpose of this part is to effectuate the provisions of title VI of the Civil Rights Act of 1964 (hereafter referred to as title VI), to the end that a person in the United States shall not, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under a program or activity receiving Federal financial assistance from ACTION.

§ 1203.2 Application of this part.

(a) This part applies to each program for which Federal financial assistance is authorized under a law administered by ACTION, including the federally assisted programs listed in appendix A to this part. It also applies to money paid, property transferred, or other Federal financial assistance extended under a program after the effective date of this part pursuant to an application approved before that effective date. This part does not apply to: